(x) Notification No. 396/86-Central Excises, dated the 22nd August, 1986, permitting grant of MODVAT credit in respect of duty paid on copper wire rods used in the manufacture of intermediate product viz. copper wires for further use in the manufacture of the final product viz. winding wires of copper.

[Placed in Library. *See* No. LT-3113/86 for (i) to (x)].

II. A copy (in English and Hindi) of the Ministry of Finance (Department of Revenue Notification No. 394/86-Central Excises, dated the 22nd August, 1986, publishing the Central Excise (15th Amendment) Rules, 1986, under sub-section (2) of section 38 of the Central Excises and Salt Act, 1944, together with an explanatory memorandum on the Notification. [Placed in Library. *See* No. LT-3114/86]

III. A copy each (in English and Hindi) of the following Notifications of the Ministry of Finance (Department of Revenue), under section 159 of the Customs Act, 1962 together with explanatory memoranda on the Notifications:—

(i) Notification No. 413/86-Cus., dated the 22nd August, 1986, amending Notification No. 232/83-Cus., dated the 18th August, 1983 so as to withdraw the concessional rate of customs duty for micromotors.

(ii) Notification No. 414/86-Cus., dated the 22nd August, 1986, prescribing an effective rate of basic customs duty of Rs. 13.00 per micromotor, and, fully exempting such micromotors from countervailing duty.

(iii) Notification No. 415/86-Cus., dated the 22nd August, 1986, seeking to withdraw the total exemption from auxiliary duty of customs on caustic soda in lye form.

(iv) Notification No. 416/86-Cus., dated the 22nd August, 1986, amending notification No. 110/86-Cus., dated the 17th February, 1986 so as to extend the concessional rate of 55 per cent (Basic +Auxiliary) duty of customs available to "projects" under Heading No. 98.01 of the Customs Tariff, to all goods imported for "Railway Electrification Project under World Bank Loan Agreement".

[Placed in Library. *See* No. LT-3115/86 for (i) to (iv)].

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THE CENTRAL DUTIES OF EXCISE (RETROSPECTIVE EXEMPTION) BILL, 1986

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHAN POOJARI): Sir, I beg to move:

"That the Bill to provide for giving retrospective effect to certain notifications relating to exemption from duties of excise, as passed by the Lok Sabha, be taken into consideration."

As the hon. Members are aware, the Excise Duty Tariff Act, 1985 providing for a new tariff nomenclature as also rates of duties of excise along with the two companion Acts, namely, the Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1985 and the Additional Duties of Excise (Textiles and Textile Articles) Amendment Act, 1985 were brought into force on the 28th February, 1986. These two Acts sought to preserve by and large, the then existing duty structure. However, where the statutory rates of duties were fixed at a level higher than the then effective rates, an attempt was made to continue the effective rates through exemption notifications so that any unintended change in the rates of duty was corrected. Some of these exemption notifications could be issued only

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after the 1st March, 1986. There were also some other notifications issued for the purpose of restoring the rate of duty prevailing prior to 1st March, 1986 on account of changes made by the notifications issued along with the Finance Bill, 1986. The Government is of the view that where the issue of the notifications after a lapse of time had caused hardship to a number of manufacturers, suitable relief would need to be given in respect of clearances of goods effected during the intervening period, that is, from the 1st March, 1986 up to the date of issue of the exemption notification.

The Central Excises and Salt Act, 1944 does not confer power to issue exemption notification with retrospective effect. Accordingly, it has become necessary to enact a separate legislation to give retrospective effect from 1st March, 1986 to those exemption Notifications issued on or after 3rd March, 1986 and before the 8th August, 1986 which have the effect of maintaining the effective rates of duties of excise at the level obtaining prior to 28th February, 1986 either with reference to the changes in the rates of duties of excise made as a sequel to implementation of the new tariff or with reference to the changes in the rates of duties of excise made through the Finance Bill, 1986.

As regards the duties of excise which have been collected but which would not have been so collected if the exemption notification was in force at the material time, it is proposed to refund the same subject to certain conditions specified in the Bill. As regards the duties of excise which have become payable but which would not have been so payable if the notification was in force at the material time, it is proposed that the same shall not be required to be pa

The question was proposed.

[The Vice-Chairman (Shri Pawan Kumar Bansal) in the Chair]

SHRI NIRMAL CHATTERJEE (West Bengal): Mr. Vice-Chairman, Sir, we find ourselves in a peculiar position. Generally it is known to the House also that our approach to excise duties is one of opposition. We emphasise on direct taxes and suggest that the indirect taxes should be reduced, excepting, of course, in the case of the so-called luxury goods,

Now, Sir, the House knows it well, and I will not dilate upon this point, that in its very nature, all indirect taxes are regressive, and that is what leads us to oppose them. Quite often we have been told by Members of the ruling party as well as the Ministry about what it is that you consider to be a necessity and what it is that you consider to be a luxury. I consider this kind of poser of the question to be extremely unintelligent. Anybody handling any textbook on Economics would be telling that there are ways of measuring which particular goods in a particular situation is a necessity and which is not. There is such a device as is called the income elasticity of demand of any particular commodity. There is a scale also. And if one runs up the scale, one can have always a cut-off point by which one says that this is a necessity and that is not. And yet, the Ministry uptill now has refused to take into account this kind of measurement and to refashion the scale of duties along that proof after taking into account this kind of measurement. That is why our opposition to excise duties are generated.

In this particular case, however, it is a very peculiar situation. In this particular case what we are opposing is a return of those excise duties which we would have opposed otherwise.

Now, let us look at the story. This is not my story alone. Let me remind the Minister of Finance and the House also that again and again it has been pointed out by various reports of the Public Accounts Committee that a notification which suddenly

withdraws an excise duty, passes off to the manufacturer, who may be in close touch with somebody in the higher-ups in the Government, some additional benefit which it is declared is not intended to be delivered. In this case imagine what is the amount the amount involved? The Government, I suspect, has rather euphemistically put the figure as not more than Rs. 5 crores in its financial memorandum. It can be larger than that sum. Now, from whom has this amount been collected? This amount has been collected at the first stage by the Government where the excise duty was levied. Now, is it not known to the Minister or to anybody else that while paying the excise duty to the Government that particular firm has collected that excise duty from the person to whom his goods were sold? Is it unkown? Is it unkown even to Mr. Poojari who is primarily led by his qualities of heart and that overshows his other qualities? If it is known, then what does this giving with retrospective effect means? These firms have collected Rs. 5 crores from those people to whom they have sold their goods. And yet the Government is contributing these Rs. 5 crores to them! This is the meaning of this retrospective effect. Can you imagine this? I can. Because by now the entire collection of economic policies of the Government of India is evident at finding ways of helping anybody who is in the private sector.

Because there are other Bills to be discussed, I will not dilate once again on these points, but this is one more expression of that. Shamelessly the Government from out of its coffers is contributing this amount to them. Well, if it thinks that because of the mistakes in MODVAT you have charged higher rates and you have collected the amount because the goods are in the market, and if you feel your conscience is pricked—as the Education Minister has just now said he does not know wherefrom will the funds come—deposit the amount in the education fund. Instead of doing that the Government—I do not know from which consideration—is giving a bounty of Rs. 5 crores to those whom we all know to be people, who are unscrupulous and on whom the Government wants to depend for Indian economic prosperity.

I don't want to take much time of the House. Therefore, I would end up by saying that I want the House to totally oppose this bounty of Rs. 5 crores to these selective few producers who have already received that amount from their forward linkages.

SHRI JANARDHAN POOJARI: Sir, the hon. Member has raised a relevant point. In fact, unintended levy has caused unintended confusion. At the time of introduction I have stated and the hon. Member may kindly recall that when we have changed that Act into a new Tariff Act there is bound to occur some anomaly and in order to remove that anomaly we have promised during that period that we may come with some notification. The hon. Member knows the items which are covered under item No. from 1 to 67...

SHRI NIRMAL CHATTERJEE: MODVAT.

SHRI JANARDHAN POOJARI: Not MODVAT. Under old Tariff Act items which are covered from item No. 1 to 67 are not covered under item No. 68. Perhaps the hon. Member might be aware that we have removed item No. 68. When the shifting had taken place some anomaly was created and it was suspected also. I will just give an example.

SHRI NIRMAL CHATTERJEE: You need not waste the time. There has been some error. I want to know: to whom you are returning these Rs. 5 crores?

SHRI JANARDHAN POOJARI: I will give you an example. In some factories steam is used due to health and other factors. Prior to 28-2-1986 it was exempted. When item No. 68

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was changed this was covered under another item. Then unintended levy was imposed. It was not the intention of the Government to levy that duty. So for a short period when the levy was imposed actually it was not collected. It has happened in so many cases and the hon. Member knows about this fact. In the case of a manufacturing unit this levy is not imposed. The hon. Member is a veteran parliamentarian and he knows about this fact. Sir, only on certain items the levy is imposed. When unintended levy is there, what we have to do. We rectify this anomaly through a notification. We have said that this Rs. 5 crores revenue loss is not a correct figure. It may be Rs. 1 crore or Rs. 28 lakhs or Rs. 25 lakhs.

SHRI NIRMAL CHATTERJEE: You have very specifically said it would be a refund of Rs. 5 crores. I take it refund means you are collecting. It is not a gross collection. My second question is: you are refunding to whom? Is it only when the goods leave the shed you collect the excise duty? The goods leave the shed and sold to others. The excise duty is collected from the purchasers and not from the manufacturers.

SHRI JANARDHAN POOJARI: Let me make it clear. If at all it has to be refunded, it will be like this. We are not having the figure. When the notifications are issued, affected parties are there. They will come forward with a claim. We have issued a notification rectifying this measure between 3rd March, 1986 and 8th August, 1986, and it is a one time measure for giving retrospective effect to 61 notifications. That is all and here also, we are not in a position to tell you what would be the amount that would be refunded and not in all cases for the information of the hon. Member, I can say at this juncture, only in 20 notifications, we are not to return anything. It is only to rectify the anomaly that has been created when it was shifted. That is all.

Now, coming to the accusation that we have helped big people and also helped some rich industrialists or big industrialists, who are close to top officials, is not correct. All these accusations have been made by the hon. Minister. Mr. Nirmal Chatterjee, are you aware of the fact that we have collected Rs. 2,616 crores, more than the Budget Estimates of 1985-86. You are a Member of the Consultative Committee and you should know that. It has never happened in the history of the country and more fund is available even for the developmental activities. Had we shown any concessions to anybody at all, had we not taken effective steps, we would not have been able to unearth black money and we would not have been able to achieve this performance. So, the argument to the effect that we are not taking effective steps against the rich industrialists is not correct. The hon. Member knows it well and even I can go to the extent of saying that he has complimented also for taking effective action against the tax evaders. So, there is no question of letting anybody scot free without taking any action against such people. Sir, I thank the hon. Members for having taken very short time and also for posing only one question. Otherwise, in other Bills, lot of confusion was created unnecessarily and I too was confused. I am thankful to the Chair also for giving me an opportunity to explain the doubts which have been created by hon. Member Shri Nirmal Chatterjee.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): The question is:

"That the Bill to provide for giving retrospective effect to certain notifications relating to exemption from duties of excise, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): We shall

now take up clause-by-clause consideration of the Bill. There are no amendments.

Clause 2 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI JANARDHAN POOJARI: Sir I move:

"That the Bill be returned."

The question was put and the motion was adpoted.

THE TAXATION LAWS (AMENDMENT AND MISCELLANEOUS PROVISIONS) BILL, 1986

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHAN POOJARI): Sir, I beg to move:

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and to provide for exemption to a Government company from income-tax and surtax for a speciefid period, as passed by the Lok Sabha, be taken into consideration."

The provisions of this Bill, in brief, are:—

The Long Term Fiscal Policy had indicated the Government's intention to remove weaknesses in law which hinder effective penal and other actions against tax evaders. Accordingly, it is proposed to amend the provisions dealing with penalties and prosecutions under the direct tax laws to provide that before imposing a penalty or prosecuting a tax evader, the intention to evade need not be proved by the Income-tax Department once tax evasion has been proved. Similarly, in the case of defaults which attract penalty, it would be for the tax-payer to prove that there was a reasonable cause for default. Other enactments dealing with economic offences like the Central Excise, Customs, FERA already have this position. I wish to make it clear here and now that the Income-tax Department will have to prove that an offence has been committed.

In his statement made in the Lok Sabha on the 5th May, 1986, the Finance Minister had announced that sections 10A, 80HHB and 80HHC of the Income-tax Act would be amended so as to further encourage exports. The amendment to section 80HHB has already been carried out through the Income-tax (Amendment) Act, 1986. It is now proposed to amend section 80HHC of the Income-tax Act so that deduction allowable to the exporters is increased to the extent of four per cent of the net foreign exchange realisation plus fifty per cent of the remaining profits on exports. It is also proposed to amend section 10A of the Income-tax Act to enable an assessee deriving any profits and gains from an industrial undertaking in the free trade zones to claim deduction for any five consecutive assessment years, at his option, falling within a period of eight years from the year in which the industrial undertaking begins to manufacture or goes into production.

In para 96 of the budget speech this year, it had been proposed to rationalise the rate structure in respect of depreciation and to switch over to a scheme where depreciation is allowed on a block of assets rather than on specific assets. It is proposed to amend the Income-tax Act accordingly. As a consequential measure the concept of terminal allowance will also be done away with. Similarly, other types of depreciation such as extra shift allowance, initial depreciation, etc. will be done away with. To ensure a smooth switch-over to the new system, certain transitory provisions are also proposed. The new rates of depreciation are to be given effect to from 2-4-1987, that is, from the assessment year 1988-89 onwards.

While section 139 of the Income-tax Act provides that every person whose total income exceeds the exemption limit shall file a return of income, a larger number of persons who do not have taxable income also file returns, sometimes as part of a plan for tax evasion. To reduce this and also as an anti-tax evasion measure, it is now proposed to amend the law so that voluntary returns declaring incomes below taxable limit can be ignored by the Income-tax Department. It is also proposed that any person who seeks to avail of the benefit of